IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1739 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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AMRUTBHAI MANCHHABHAI GARASIA - Petitioner(s)

Versus

STATE OF GUJARAT & 4 - Respondent(s)

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Appearance :

MR NV GANDHI for Petitioner(s) : 1,
MR SIRAJ GORI, AGP for Respondent(s) : 1,2,3,
MR BHUSHAN B OZA for Respondent(s) : 4,5.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 07/02/2006

ORAL JUDGMENT

1.Rule. Learned AGP Shri Siraj Gori waives service of notice of rule on behalf of respondents no.1 to 3. Learned advocate Shri B.B. Oza waives service of notice of rule on behalf of respondents no. 4 and 5. At the request of the learned advocates appearing for the parties, the petition is taken up for final disposal

today.

2. The petitioner has challenged an order dated 01-01-2006 passed by Principal Secretary(Appeals) Revenue Department, Government of Gujarat. By the said order, revision application of the petitioner came to be rejected. This revision application is closely connected with another revision application filed by the respondents no. 4 and 5 being revision application no.74/2004. The order was being passed in the said revision application also which came to be challenged by the petitioner in Special Civil Application No.63/2003. For want of notice to the petitioner, before the Secretary passed the final order in the said revision application, the petition was allowed and the proceedings were remanded for fresh consideration and disposal in accordance with law.

2.1 In the present petition also the petitioner has averred that the petitioner had no notice before his revision application was rejected by the Secretary.

3. Considering the above situation, it would be appropriate to remand the present proceedings also for fresh consideration and final disposal in accordance

with law by Secretary. For the above purpose, order dated 02-01-2006 impugned in the present petition is quashed. The revision application of the petitioner being revision application no. 131/2005 will be considered and disposed of by the Secretary after hearing the petitioner and respondents no. 4 and 5 herein. The cognate revision application filed by the respondents no. 4 and 5 herein is fixed before the said authority on 15-02-2006. The present revision application upon remand also be placed before the authority on 15-02-2006 for contesting parties to appear before him. There will be no necessity of separate notice of the above date. If it is not convenient to the Secretary to hear the proceedings on 15-02-2006 itself, it will be open for the him to fix another date.

4. With these directions, the petition is disposed of. Rule is made absolute to the above limited extent with no order as to costs.

Direct service to respondent no.1 is permitted.

(Akil Kureshi,J.)

(raghu)